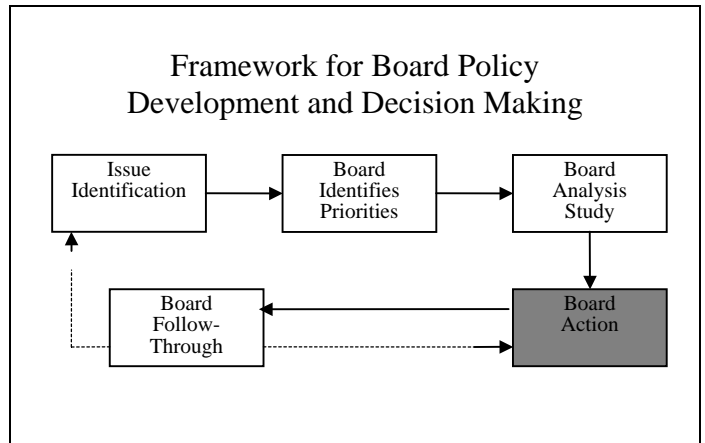


# Iowa State Board of Education

## Executive Summary December 11, 2006



**Agenda Item:** Chapter 120 rules, “Early ACCESS Integrated System of Early Intervention Services

**Iowa Goal:** 2. All K-12 students will achieve at high levels, prepared for success beyond high school.

**Equity Impact Statement:** All school districts are governed by rules promulgated by the State Board.

**Presenter:** None

**Attachments:** 1

**Recommendation:** It is recommended that the State Board approve the notice of intended action for the proposed amendments to Chapter 120.

**Background:** The proposed amendments clarify the definition of “parent” and clarify that a child’s education records, as defined by the federal regulations to the Family Educational Rights and Privacy Act in 34 C.F.R. Part 99, may be transmitted between appropriate agencies without parental consent.

## EDUCATION DEPARTMENT [281]

### Notice of Intended Action

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 120, “Early ACCESS Integrated System of Early Intervention Services,” Iowa Administrative Code.

The proposed amendments clarify the definition of “parent” and clarify that a child’s education records, as defined by the federal regulations to the Family Educational Rights and Privacy Act in 34 C.F.R. Part 99, may be transmitted between appropriate agencies without parental consent.

An agency-wide waiver provision is provided in 281—chapter 4.

Interested individuals may make written comments on the proposed amendments on or before January 23, 2007, at 4:30 p.m. Comments on the proposed amendments should be directed to Thomas Mayes, Bureau of Children, Family, and Community Services, Iowa Department of Education, Third Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)242-5614; E-mail [thomas.mayes@iowa.gov](mailto:thomas.mayes@iowa.gov); or fax (515)242-6019.

These amendments are intended to implement Iowa Code chapter 256B and 20 U.S.C. sections 1400-ff.

The following amendments are proposed.

## Chapter 120, Early ACCESS Integrated System of Early Intervention Services

Item 1. Amend rule **281—120.4(34 CRF 303)** as follows:

Rescind the definition of “parent” in its entirety and adopt the following **new** paragraph in lieu thereof:

“*Parent*” means (1) a biological or adoptive parent of a child; (2) a foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent; (3) a guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child, but not the State if the child is a ward of the State; (4) a person acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom a child lives, or a person who is legally responsible for the child’s welfare; or (5) a surrogate parent who has been appointed in accordance with 34 C.F.R. § 300.519 or 20 U.S.C. § 1439(a)(5).

The following criteria shall be used to determine whether a party qualifies as a “parent:”

1. Except as provided in this section, the biological or adoptive parent, when attempting to act as the parent under this chapter and when more than one party is qualified to act as a parent under this chapter, must be presumed to be the parent for purposes of these rules unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
2. If a judicial decree or order identifies a specific person or persons under clauses (1) through (4) of the definition of “parent” to act as the parent of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent for purposes of this definition.
3. No public or private agency involved in the education or care of a child may serve as a child’s parent.
4. No employee or contractor with any public or private agency involved in the education or care of a child may serve as a parent in that employee or contractor’s official capacity.

ITEM 2. Amend rule **281—120.59(34CFR303)** as follows:

**281—120.59(34CFR303) Transmittal of records.** In order to facilitate the child’s smooth transition to preschool or other appropriate services and to ensure continuity of services for the child, the applicable signatory agency or community partner must obtain written parental consent prior to transmitting any records of the child to the local education agency or other applicable agency or program, unless the records are education records and the disclosure is authorized without parental consent under 34 CFR part 99. Records that may be transmitted include:

1. Evaluation and assessment information.
2. Copies of IFSPs that have been developed and implemented. [34 CFR 303.344(h)(2)(iii)]